IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

Crl.MC.No. 600 of 2000

CC.291/1999 of CHIEF JUDICIAL MAGISTRATE COURT, THRISSUR

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PETITIONER/ACCUSED:

LAWRENCE, S/O OUSEPH
EDAKKALATHOOR,
BUSINESS
RESIDING AT WELCOME VILLA
POONKUNNAM
THRISSUR

BY ADV. SRI.P.VIJAYA BHANU
SRI.S.RAJEEV
SMT.P.MAYA

RESPONDENTS/COMPLAINANT & STATE:

1. P.P.JOSE
S/O PELLISSERY PORINCHU
CHIYYARAM VILLAGE
THRISSUR TALUK

2. THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA
ERNAKULAM

BY ADV. SRI.P.G.RAJAGOPALAN
SRI.M.GOPIKRISHNAN NAMBIAR
SRI.SHIRAZ ABDULLA
SRI.T.P.KELU NAMBIAR (SR.)
PUBLIC PROSECUTOR SRI.AMHETH ALI

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 07/12/2007, ALONG WITH CRMC NO. 3147 OF 2000, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

A.K.BASHEER, J.

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Crl.M.C.No.600 & 3147 OF 2000

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Dated this the 7th day of December 2007

ORDER

Having heard learned counsel for the parties and having perused the materials available on record, I am of the view that these petitions filed by accused 1 and 3 respectively under Section 482 of Code of Criminal Procedure seeking to quash the proceedings pending against them need not be retained any more on the file of this court. In my view, the petitioners have to urge their contentions before the learned Magistrate before whom the complaint is admittedly pending.

2. The nature of the allegations in the complaint is such that the question whether the petitioners are entitled to be discharged can be considered appropriately only by the court below before whom records are available. However, it is brought to my notice that the civil court had already passed a decree and judgment in the suit which was pending between the parties at the time when the complaint was filed.

3. Learned counsel for the petitioners tried to persuade me to accept their plea to quash the proceedings on the basis of certain observations made by the civil court in the judgment. But still I am of the view that this court in exercise of its inherent power under Section 482 of the Code need not consider those contentions at this stage. Petitioners shall be at liberty to plead for discharge as provided under the Code in which event learned Magistrate shall consider the said request as a preliminary issue at the threshold itself and take a decision in accordance with law.

4. It is made clear that the learned Magistrate shall afford sufficient opportunity to the petitioners to be heard and allow them to place on record available materials in support of their plea. A decision shall be taken as expeditiously as possible, at any rate, within two months from the date of receipt of a copy of this judgment. The learned Magistrate shall exempt petitioners from personal appearance, if such a plea is made on their behalf.

Criminal M.Cs. are disposed of in the above terms.

(A.K.BASHEER, JUDGE)

jes

A.K.BASHEER, J.

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Crl.M.C.No.600 & 3147 OF 2000
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ORDER

Dated, 7th December 2007